

Appl. No. 09/806,709
Reply to Office Action of October 7, 2005

Remarks/Arguments:

According to the Office Action, mailed October 7, 2006 (hereinafter, "Office Action"), claims 1 to 36 are currently pending and under examination. In the Office Action, the Examiner made the following new arguments, objections and rejections:

- Claims 1-36 were made subject to restriction and/or election requirement.

1. **Remarks:**

a. **Response is timely.**

A response to the Office Action was due on November 7, 2005. The applicants attach hereto a Petition For Extension Of Time Under 37 CFR 1.136(a) along with payment of the associated fee. With the 5-month extension of time to respond to the Office Action, a response becomes due on April 7, 2006. This response was filed before this date and is therefore timely.

b. **Fees.**

The applicants have authorized the Commissioner to charge Deposit Account No. 50-0244 for \$2,160.00 for the fee to file a Petition For Extension Of Time Under 37 CFR 1.136(a).

The applicants do not believe that any additional fees are due. However, please charge any additional fees required or credit any fees overpaid to Deposit Account No. 50-0244.

c. **Amendments to the Claims.**

Claims 3 to 8, 12, and 16 to 36 were canceled without prejudice or disclaimer.

Claims 1 and 15 were amended without prejudice or disclaimer and to further applicants' business interests and the prosecution of the present application. The amendment to claim 1 is supported in the specification at page 6, lines 16 to 23. The amendment to claim 15 deletes six of the seven plasmids recited in the original claim 15, and the recitation of remaining plasmid (which is DS-1046-1-1) in this claim is supported in the specification at page 7, line 6.

The amendments to the claims as discussed above do not add any new matter. Applicant reserves the right to prosecute any canceled or amended subject matter in a later application.

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2. Arguments.

The Examiner alleges that claims 1-36 covers more than a single invention; and, therefore, requires the applicants to elect a single invention from eighty-two groups beginning with A and ending with BF.

The applicants elect to prosecute invention, Group K, claims 1-11 and 13-15, drawn to a nucleic acid and vector comprising a promoter coupled to a modified operon comprising SEQ ID NO: 68 or 69. Consistent with this election, the applicants have cancelled claims 3 to 8, 12, and 16-36, and amended claims 1 and 15.

3. Conclusions.

The amendments, remarks and arguments submitted herein are intended to be fully responsive to the outstanding Office Action, to advance the prosecution of the present invention, and to place the application in condition for allowance.

The applicants respectfully request consideration and entry of this paper. The applicants also respectfully request reconsideration of this application, as amended, and issuance of a timely Notice of Allowance in this case. Should the Examiner have any questions concerning this application, she is invited to contact the undersigned at (570) 839-5537.

Respectfully submitted,

Date: April 3, 2006

By: 

Robert Yoshida
Reg. No. 54,941

Sanofi Pasteur Inc.
Intellectual Property - Knerr Building
One Discovery Drive
Swiftwater, PA 18370
Telephone: (570) 839-5537
Facsimile: (570) 895-2702